

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LABORERS' PENSION TRUST FUND -  
DETROIT AND VICINITY, et al.,

Plaintiffs, CIVIL CASE NO. 03-40240

v.

DAVID LANGE, d/b/a ABLE CONCRETE  
WALL, INC., et al.,

HONORABLE PAUL V. GADOLA  
U.S. DISTRICT COURT

Defendants.

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**ORDER GRANTING PLAINTIFFS' RENEWED MOTION FOR SUMMARY  
JUDGMENT**

On September 11, 2003, Plaintiffs filed a Complaint containing two counts seeking the enforcement of an arbitration award for fringe benefit contributions. Plaintiffs and Defendants filed cross-motions for summary judgment on September 19, 2004. On February 8, 2006, Magistrate Judge Paul Komives issued a Report and Recommendation recommending that the motion for summary judgment be granted in favor of Plaintiffs with respect to Count I of Plaintiffs' Complaint, but that the motion be denied with respect to Count II. The Magistrate Judge made this recommendation because he concluded that genuine issues of material fact remained with respect to the accuracy of the audit upon which Plaintiffs were basing their claim for damages. On March 27, 2006, this Court accepted and adopted the Magistrate Judge's Report and Recommendation. Now before the Court is Plaintiffs' Renewed Motion for Summary Judgment, filed on April 24, 2006.

The proof of service for Plaintiffs' motion indicates that it was served on Defendants via

United States Mail on April 24, 2006. No response opposing the motion has been filed. Local Rule 7.1(b) for the Eastern District of Michigan requires that a “respondent opposing a motion **must** file a response, including a brief and supporting documents then available.” E.D. Mich. L.R. 7.1(b) (emphasis added). Local Rule 7.1(d)(1)(B) requires that responses to dispositive motions are due within twenty-one (21) days of service of the motion. E.D. Mich. L.R. 7.1(d)(1)(B). Accordingly, the response to Plaintiffs’ motion was due on approximately May 18, 2006. Since no response has been filed, the motion is unopposed.

The Court, having reviewed Plaintiffs’ motion, the accompanying brief and affidavit, and the applicable law, determines that for the reasons stated in the motion and its accompanying brief, the Court will grant the relief requested. Specifically, the Court finds that the genuine issues of material fact concerning the accuracy of the audit identified by Magistrate Judge Komives in his Report and Recommendation have been satisfied by Plaintiffs.

**ACCORDINGLY, IT IS HEREBY ORDERED** that Plaintiffs’ Renewed Motion for Summary Judgment [docket entry 28] is **GRANTED**.

**SO ORDERED.**

Dated: June 28, 2006

s/Paul V. Gadola  
HONORABLE PAUL V. GADOLA  
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on June 28, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

George H., Kruszewski, and I  
hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: David Lange.

s/Ruth A. Brissaud  
Ruth A. Brissaud, Case Manager  
(810) 341-7845